



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4089

Introduced 7/7/2005, by Rep. Robert F. Flider

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-106

from Ch. 111 1/2, par. 4152-106

Amends the Nursing Home Care Act. In provisions concerning the use of restraints on nursing home residents, provides that a restraint may be used only under the supervision of a licensed health professional and only for a strictly defined period (instead of only for specific periods). Provides that in no case may a restraint be used for more than 2 hours. Requires continued assessment of a resident's condition to treat any ill effects resulting from the use of a restraint. Sets forth procedures to be used when applying a restraint. Requires that a nursing home adopt a clear, written instructional policy on the use of restraints and make the policy available to residents and their guardians or other authorized representatives. Requires a nursing home to keep records concerning the use of restraints.

LRB094 12843 DRJ 47689 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing  
5 Section 2-106 as follows:

6 (210 ILCS 45/2-106) (from Ch. 111 1/2, par. 4152-106)

7 Sec. 2-106. Restraints and confinements.

8 (a) For purposes of this Act, (i) a physical restraint is  
9 any manual method or physical or mechanical device, material,  
10 or equipment attached or adjacent to a resident's body that the  
11 resident cannot remove easily and restricts freedom of movement  
12 or normal access to one's body. Devices used for positioning,  
13 including but not limited to bed rails, gait belts, and  
14 cushions, shall not be considered to be restraints for purposes  
15 of this Section; (ii) a chemical restraint is any drug used for  
16 discipline or convenience and not required to treat medical  
17 symptoms. The Department shall by rule, designate certain  
18 devices as restraints, including at least all those devices  
19 which have been determined to be restraints by the United  
20 States Department of Health and Human Services in interpretive  
21 guidelines issued for the purposes of administering Titles 18  
22 and 19 of the Social Security Acts.

23 (b) Neither restraints nor confinements shall be employed  
24 for the purpose of punishment or for the convenience of any  
25 facility personnel. No restraints or confinements shall be  
26 employed except as ordered by a physician who documents the  
27 need for such restraints or confinements in the resident's  
28 clinical record. Each facility licensed under this Act must  
29 have a written policy to address the use of restraints and  
30 seclusion. The Department shall establish by rule the  
31 provisions that the policy must include, which, to the extent  
32 practicable, should be consistent with the requirements for

1 participation in the federal Medicare program. Each policy  
2 shall include periodic review of the use of restraints.

3 (c) A restraint may be used only with the informed consent  
4 of the resident, the resident's guardian, or other authorized  
5 representative. A restraint may be used only under the  
6 supervision of a licensed health professional and only for a  
7 strictly defined period ~~specific periods~~, if it is the least  
8 restrictive means necessary to attain and maintain the  
9 resident's highest practicable physical, mental or  
10 psychosocial well-being, including brief periods of time to  
11 provide necessary life-saving treatment. A restraint may be  
12 used only after consultation with appropriate health  
13 professionals, such as occupational or physical therapists,  
14 and a trial of less restrictive measures has led to the  
15 determination that the use of less restrictive measures would  
16 not attain or maintain the resident's highest practicable  
17 physical, mental or psychosocial well-being. However, if the  
18 resident needs emergency care, restraints may be used for brief  
19 periods to permit medical treatment to proceed unless the  
20 facility has notice that the resident has previously made a  
21 valid refusal of the treatment in question. The use of the  
22 restraint shall be discontinued as soon as feasible. In no  
23 case, however, may a restraint be used for more than 2 hours,  
24 or less if necessary, to allow for normal body functioning.  
25 Following the use of a restraint, there must be continued  
26 assessment of the resident's condition to treat any ill effects  
27 resulting from the use of the restraint.

28 (d) A restraint may be applied only by a person trained in  
29 the application of the particular type of restraint. The health  
30 professional must apply and adjust the restraint so that it is  
31 comfortable for the resident. The health professional must also  
32 do all of the following:

33 (1) Follow the manufacturer's directions to select the  
34 type of restraint recommended for the resident's  
35 condition.

36 (2) Use the correct size restraint for the resident's

1 weight.

2 (3) Note the "front" and "back" of the restraint and  
3 apply the restraint correctly.

4 (4) Tie knots that can be released quickly.

5 (5) Secure a bed restraint to the bed springs or frame,  
6 never to the mattress or bed rails.

7 (6) In the case of a bed restraint used with an  
8 adjustable bed, secure the restraint to the parts of the  
9 bed that move with the resident.

10 (e) Whenever a period of use of a restraint is initiated,  
11 the resident shall be advised of his or her right to have a  
12 person or organization of his or her choosing, including the  
13 Guardianship and Advocacy Commission, notified of the use of  
14 the restraint. The facility shall display a notice of this  
15 right, and of other instructions concerning the use of  
16 restraints, in a highly visible location within the facility.  
17 The notice shall be in English and in any other language spoken  
18 by a resident of the facility who does not speak English. A  
19 recipient who is under guardianship may request that a person  
20 or organization of his or her choosing be notified of the  
21 restraint, whether or not the guardian approves the notice. If  
22 the resident so chooses, the facility shall make the  
23 notification within 24 hours, including any information about  
24 the period of time that the restraint is to be used. Whenever  
25 the Guardianship and Advocacy Commission is notified that a  
26 resident has been restrained, it shall contact the resident to  
27 determine the circumstances of the restraint and whether  
28 further action is warranted.

29 The facility shall adopt a clear, written instructional  
30 policy on the use of restraints and shall make copies of the  
31 policy available to residents of the facility and their  
32 guardians or other authorized representatives.

33 (f) Whenever a restraint is used on a resident whose  
34 primary mode of communication is sign language, the resident  
35 shall be permitted to have his or her hands free from restraint  
36 for brief periods each hour, except when this freedom may

1 result in physical harm to the resident or others.

2 (f-5) The facility shall keep well-documented records of  
3 all circumstances resulting in the use of a restraint on a  
4 patient, including why, how, where, and for how long the  
5 restraint was used.

6 (g) The requirements of this Section are intended to  
7 control in any conflict with the requirements of Sections 1-126  
8 and 2-108 of the Mental Health and Developmental Disabilities  
9 Code.

10 (Source: P.A. 93-636, eff. 6-1-04.)